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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,078	12/27/2006	Ian Francis Sharp	B-5845PCT 623115-4	9482

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EXAMINER	
PATHAK, SUDHANSHU C	
ART UNIT	PAPER NUMBER
2611	

MAIL DATE	DELIVERY MODE
06/23/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/562,078	SHARP, IAN FRANCIS	
	Examiner	Art Unit	
	SUDHANSHU C. PATHAK	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 December 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/22/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-24 are pending in the application.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 25 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 16 & 18 are directed to a signal, i.e., **Software**. Software per se is non statutory invention and the claim or specification cannot claim software. In the instant case, the claim recites software and should be amended.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-12 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The claims recite a device for (encoding / decoding), however does not recite **any elements** or any structural **relationships between the elements**.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-24 & 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Rudish et al. (5,793,798).

In regards to Claims 1, 7, 13, 19 & 26, Rudish discloses a device (method) for encoding (decoding) a datum (Fig. 1, element 6, 14 & Fig.'s 2-3, elements 1-2), the device being operable to encode the datum by effecting a phase difference between one or more first pseudorandom signals and one or more corresponding second pseudorandom signals (Fig. 2, element 22, 32 & Fig. 3, element 122 & Fig. 4, element 222, 224 & Column 4, lines 1-16 & Column 5, lines 10-40) {Interpretation: The reference discloses an encoder for performing the claimed limitation and further discloses a decoder for performing the decoding of the encoded signals}. Rudish further discloses a RF transmitter / receiver processor for implementing the method as described in the claim {Interpretation: The reference discloses a processor for implementing the method thus this is interpreted to include a computer readable medium (memory) comprising instructions (software) for executing the process}.

In regards to Claims 2, 8, 14 & 20, Rudish discloses a device (method) for encoding (decoding) a datum as described above. Rudish further discloses the device is operable to use any one of the first pseudorandom signals as a distinct

channel that can be selected to encode the datum (Column 5, lines 10-20, 56-67 & Column 11, lines 56-67 & Column 12, lines 1-7, 46-60 & Column 16, lines 20-50) {Interpretation: The reference discloses an encoder for performing the claimed limitation and further discloses a respective decoder for performing the decoding of the encoded signals}.

In regards to Claims 3, 9, 15 & 21, Rudish discloses a device (method) for encoding (decoding) a datum as described above. Rudish further discloses the device is operable to use a plurality of the first pseudorandom signals as a single channel that can be used to encode the datum (Column 4, lines 1-16 & Column 5, lines 20-34 & Column 12, lines 8-30, 47-60 & Fig. 1, element 6) {Interpretation: The reference discloses an encoder for performing the claimed limitation and further discloses a respective decoder for performing the decoding of the encoded signals}.

In regards to Claims 4, 10, 16 & 22, Rudish discloses a device (method) for encoding (decoding) a datum as described above. Rudish further discloses the device is operable to effect the phase difference by controlling a signal generating means, which is arranged to generate the first pseudorandom signals, such that it outputs a symbol of each of the first pseudorandom signals at a predetermined time, wherein the predetermined time results in the phase difference between the symbol and a corresponding symbol in each of the second pseudorandom signals (Column 4, lines 1-16 & Column 5, lines 20-34 & Column 12, lines 8-30, 47-60 & Fig. 1, element 6) {Interpretation: The reference discloses an encoder for performing the

claimed limitation and further discloses a respective decoder for performing the decoding of the encoded signals}.

In regards to Claims 5, 11, 17 & 23, Rudish discloses a device (method) for encoding (decoding) a datum as described above. Rudish further discloses a device for encoding a datum as described above. Rudish further discloses the datum comprises a signal encoded with information (Column 21, lines 19-30 & Fig. 1, element "RF Signal") {Interpretation: The reference discloses an encoder for performing the claimed limitation and further discloses a respective decoder for performing the decoding of the encoded signals}.

In regards to Claims 6, 12, 18 & 24, Rudish discloses a device (method) for encoding (decoding) a datum as described above. Rudish further discloses the first pseudorandom signals and second pseudorandom signals are in the form of direct sequence spread-spectrum signals (Column 1, lines 50-65 & Column 5, lines 34-41 & Column 12, lines 8-20 & Column 21, lines 40-65) {Interpretation: The reference discloses an encoder for performing the claimed limitation and further discloses a respective decoder for performing the decoding of the encoded signals}.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUDHANSHU C. PATHAK whose telephone number is (571)272-5509. The examiner can normally be reached on 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh M. Fan can be reached on 571-272-3042.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sudhanshu C Pathak/
Primary Examiner, Art Unit 2611